

The iust Lavvyer

Hu

6145. f. 30

Conscionable Complaint

against

Atricular or private Informing and solici-
ting of Judges.

By their { Menials,
Friends and
Favourites.

With

A sure Advice for Reformation thereof;

As also,

*An Appendix with objections against
Favourites at the barre of Justice;*

With

*A probable Receipt for the Cure of that
Maladie.*

Altera Petatio non est audienda. Coke. li. 5. 2. part 40.

Let those that on this Title chance to looke,
Read the Epistle or neglect the Booke.

London, printed by George Purflowe 1631.





The PVBLISHER to the PERUSER.



The difference of mens dispositions and degrees (as we may daily note) produceth different Effects, as wel in reproving vices and approving vertues: as on the contrary, every one expressing himselfe by Lips or Letters, according to the suggestions of that good or evill spirit, whereby he is induced or seduced.

This man being of a temperate and sober quality, inveighs against Riotousnes and Intemperancy. That man addicted to labor and thriftnesse, accuseth our fashion-following Gentry of sloth and prodigality.

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digality: So (in particular) the Author of this Treatise, spending his dayes in the study and practice of the Law (wherin he grew to such proficiency, alwaies directed by Integrity, as made him famous both for learning and honesty, whose name nevert helesse for some causes I conceale) many yeeres sithence, as one pathetically moved with the corrupt courses used, and the excessive bribery affected in those dayes by his brethren learned in the Lawes, especially the more eminent sort; and the continuall condescending or proclivity of the Judges, not onely to their unius motions, but to the private and undue solicitations of their owne Menials, besides their Friends & Favourites at large; and their partiall preferring or bearing of some Pleaders before others at the Barre of Justice, (whereby many a Client in his iust cause had suffered

wreck



to the Peruser.

wreck and perished contrary to Law, all
Equity and good Conscience) That
black Swan or iust Lawyer spared some
time from his other studies to penne this
Conclionable Complaint; which albe-
it the same cannot extend, nor may any
way enure unto the least impeachment
or contumely of our honourable Judges in
these times (whom f ingeniously acknow-
ledge, and fame declares to bee of a most
reformed and unimpeachable condition)
yet may it serve as a good caveat & hum-
ble information to the uprightnessse of
them and their Successours, for the pre-
venting and avoiding of the like abuses
to be offered by their Friends or Follow-
ers, or by any such ill conscienced Advo-
cates, (whereof there are too too many (I
feare) still abiding or new started up)
and also as a Memento for all men to
note the plausible and happy alteration

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in courts and courses of Justice, the ancient with the moderne proceedings duly compared: And likewise all those trespassers viewing (as in a glasse) their own deformities (or rather enormities) herein so lively represented and publike-ly declared, may haply bee incited either for feare of shame, or for the gaine of an honest name, to become consonable Converts. And for my part, with and in favour of every well-meaning and abused Client, I wish all such Lawyers to bee speedily converted or subverted, and so conclude.

Editor benevolus

ad Causidicum iniquum.

Nec me vulgantem reprehendas, has neque Chartas;

Ne tua te vulget lingua maligna reum.

Ad Librum.

Te nolunt culpare boni bonitatis amore;

Te nolunt culpare mali formidine probri.

THE

THE COMPLAINT

OF Good Conscience.

All Lawes both divine and humane, and all the Counsels of learned and vertuous Politicians doe concurre and joyne in this point; that it is the Office of an upright Judge, *instigare verum*, to trace out the very truth of the cause in Judgement before him, *et secundum veritatem sententiam dicere*, & give sentence according to the truth: So as in doing that Office he ought not to respect the person of any, but altogether to set up for his marke, the cause with the circumstances thereof, being assured, that *quicquid extra causam est, persona est*. And therefore the Embleme of a Judge was rightly pourtrayed with *wide ears*, but without any eyes at all; to denote that hee ought fully and patiently to heare the whole cause but not affectionately.

*altera avis
Accusacion,
altera Reo est
reservanda*

ly

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ly to respect any partie that hath to meddle therein.

The pur-
pose of a
whispe-
ring Infor-
mer.

On the other side, the very drift of a whispering *Informer* is either to allure the *Judge* from that *Indifferencie* (which he ought equally to nourish betweene both parties in suit) to a partiall disposition in favour of the *one* against the *other* of them: or otherwise to shore up the *Judge* (as it were) when he suspecteth his *inclination* to the *Adversary*. In both which he bewrayeth an unreverend conceipt and opinion of the *Judge*, whom in the court of his owne heart he hath already condemned of *infidelity*; in the *one*, because he suspecteth him to be drawne away to his disfavour, in the *other*, because hee hopeth to win and fit him to his owne *bent* and desire. And so is he farre from reputing him as he ought to be, *Murus abeneus, a wall of brasse*; whom neither the wind of secret *solicitation*, nor the storme of mighty *tbreats*, nor the showre of *Crocodilian teares* ought once to remove, shake or mollifie.

For if this *Informer* wererightly perswaded of the *integrity* of the *Judge*; What necessity can he pretend to solicit him? what reason

can

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can he yeeld why he should not permit him to sit downe and rest in his owne sincerity? Yea, why should hee endeavour to *move* him (for so they terme it) unlesse he thought him to be light and moveable? or finally to what end doth he causelessly waste his owne labour, and vainely *obtund* his cares and *interpell* his Affaires.

How speciously soever therefore these our *Cabinet Incanters* shall pretend in words, either that they desire none other than lawfull favour (a thing that is not indeed, since *Law* is indifferent and *Favour* is partiall) or that they seeke onely the good and equall conscience of the *Judge* (which they might finde without labour) or that they sue for expedition onely, or that the Cause may be advisedly weighed, both which (in most of those cases) were but to plague their owne *Client*: Or that (according to the anciently allowed manner of intreating a *Judge*) they require no more at his hands, but *quaesalvafide facere possit*, that which he may doe with the safety of his duty; yet is there evermore an irreconcileable dissention betweene Justice and their desire; who, (what semblance soever they make to the contrary)

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doe indeed hawke and hunt the *game of Favour* to the indangering of their owne *conscience*, and the wrong of the one of the parties ; and that both with the dishonour and deceipt of the man that (sitting in the place of God.) ought to deliver even and upright Justice to all that come before him : And so are all their sugred speeches, but *Syrenean voyces*, the poyson of *Aspes*, and the very *quintessence* of abuse and corruption.

The sorts
of Infor-
mers.

But now more particularly ; As these *Chambe-
rers* be either the very *parties* in suit, or their
friends ; & those *Friends* either *Favourites* at large
to the *Judge* or some of his own *menials* or *fol-
low-
ers*, or else be privy and of *Counsell* with those
parties : So is there great difference in the ve-
nemous forces of their severall *solicitations*.

The party.

For, as touching the very *Parties*, they doe
carry their own discredit in their mouths with
them, and cannot greatly prevaile (unless
they be assisted by the contagion of *reward*) be-
cause they speake for themselves in a matter
of professed and knowne enmity. And yet the
Romane Lawes misliking all such audacious im-
portunities did punish *Ambitus pœna*, both *Acto-
rem* and *Reum*, that by any subtle prayers at-
tempted

D. F. H. ad
leg. Jul. de
Ambitu.

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tempted the *Judge* in his house or elsewhere without the Court.

Moreover, their *Favorites* at large, that be ^{The Friends} _{at large} neither of counsell nor household, as they have not (for the meaner sort of them) the opportunity or advantage to worke any great harme, so doe they also many times speake but coldly, and as it were, for fashion sake, to satisfie the suit of their *Clients*, who otherwise would think themselves forsaken by them.

But if those *Favorites* be persons of estate, ^{Great M^o vers.} (whose desires carry their weight) *Officers* of great places, (who be able to interchange pleasures) or men for any respect, lodged in the bosome of the *Judge*, then ought they so much the more to forbear him, as they bee more likely than others to allure and win him to their desire, because they bring no warrant of a good *conscience* to assure them that they speak but for the one partie, so know they but the one halfe of the businesse at the most, and wot not whether they promote *justice* or preferre *injury*, whether they succour the *afflicted* or joyne with the *oppressor*: Neither is it enough in this case to pretend that they are moved by their commiseration towards the poore

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(aske once that many keepe for their defence) for what is that to the *Judge*, who as a *Judge*, is utterly forbidden to behold the face of the poore? Or what maketh that to their owne deliverance, when many (if not most) of the poore which follow *suits* can both bite and whine (*ut vulgo dicitur*) and then a many of which, there is nothing more unquiet, clamorous and wretchedly wrongfull.

But of all the rest, the *Meniall* and *Counsellors* are most pernicious; and whether of them exceedeth the other, I cannot determine, but doe leave to the judgement of the *Judge* himselfe that is haunted with them.

The Me-
niall.

This *Meniall* or *Familiar*, if he may finde the grace to be in the eye and to stand at the elbow of his *Master* (especially in the *closet*) then shall hee not want his *Swtors*, and then also will he take the courage to boord his *Master*, not onely in lawfull *Petitions*, but also in *Cau-
ses* meerely *judiciale*; and by reason that hee is neere at hand to take hold of every advantage, and may best watch both the time, the place, and good cheere of his *Lord*, and the absence of the *adversary* and of his friends, hee will make his gaine thereby both in jeast and earnest,

nest, though now and then he doe but *fumum vendere*, sell smoke, and pay *Alchyme* for good and currant money. For of these, some will sooner use (or abuse) the name of their *Master* (as it were by way of a message to others, where it may prevaile) than take the paines to speake unto himselfe, lest they discover a suspicion that they be hired for money: By these and such other meanes the innocent *Judge*, like to *Acteon*, becommeth *praedacanibus*, devoured of his owne dogges, who care not what dishonorable *staine* they cast upon him (whom they are most bounden to honour) so as they may reap the *harvest* of their most greedy and ravenous *lucre*. For as these men commonly cannot judge of the state of a cause in controvrsie; so neither doe they greatly care whether that part which they favour, be right or wrong; But doe onely fasten their *eye* upon that *money*, which may be coyned out of it, accounting that *booty* as a *reward* of their good service, wherewith they run away as glad as doth the *Dog* with a *bone*. And in this part, some of them be so miraculous *Machia-vellians* that they be able to expresse two sundry liquors out of one same vessell, making their owne

profit by both the parties to one same suit and controversie.

The Coun-
sellor.

The *Counsellor* likewise having first insinuated himselfe and become inward with the *Judge*, by the benefit of kindred, alliance, recommendations of great Persons, former education and acquaintance, or by his owne obsequie, hee will forthwith set up his crest, hee shall bee followed with a *Cloude of Clients*, and waged treble more than men of better merit: yea, he shalbe heard at the *Barre*, when they shall be wearied in wayting there: Happy is hee can get him reteind on his *Counsell*, and *Fortuna filius, omnes*, Every man will call him Fortunes owne darling: And if hee be of that ability, that he can bring the *Judge* to be his *Feeman* (or *Pentioner*) under the colour of a yeerely *new-yeeres-gift*, or may finde the meanes to possesse the *Judge* with the *loane* of some hundreds of pounds without taking any Interest therefore; then shall he coate all other practizers, then may no doore be kept against him; then shall he be a *guest* at the *Judges table*, and shall be admitted priuate both in the *closet* and also in the *Bed-chamber*. And yet in the meane while, is that money (so lent) layed out to the most extreme

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tremie usury: For all things reckoned, it shall by his increase of *Clients*, yeeld him at the yeeres end *Centum pro Cent.* or a better penny. Now albeit this man may not compare with the *Meniall* before, in the taking of the start and watching of all bon heures and opportunities; yet through his learning and other parts (which the other wanteth) he may nip a *cause* in the head, or sting it to the heart as soone as he. It hath been seene that some of these *bel-weathers*, perceiving their *Clients* businesse unable to endure the *hammer* of open *hearing*, have advised him to bestow some score of pounds or *Flight of Angels* upon the *Judge*, to worke it to some other end, and have offered themselves to present my *Lord* therewithall; and yet peradventure have suffered it by the way to drop into their owne pockets for a reasonable *supply* of *Fees* forgotten.

Thus, as you see is the *integrity* of this gentle *Judge* drawne first into suspition, and after that into open obloquie, the one and the other growing by his owne facility, and by giving eare to those buzzing *Flies* and hissing *Adders*, his good quiet and repose is also interrupted by often obtunding that in his privie *Closet*, which

hec

he might dispatch with once hearing in open Court. The cause of the honest suitor must either take wrong, or else must he also (against his will and good conscience) finde out some Oliver to withstand this Rowland of his Adversary. These Cormorants are crammed even to the fulfilling of their greedy gulfe, the sacred seate of justice suffereth reproach: The Prince of the people (being the well-head of justice) is abused in his vicary: Good men sobbing for griefe, and naughty packs laughing in their sleeves at it; who also doe evermore re- quite such their misbegotten favour with this thankfulness, that their tongues doe continually itch, untill they have blabbed abroad all the manner and meanes of atchieving their injurious desires and corrupt conquests.

The Re-
medy.

The Remedy of all which evils is so easie, that the same is not onely at hand, but in the very hand and power of the Judge himselfe: For if he be willing to maintaine the authority and countenance of his *call*, he may *alto vulnu*, with a lofty looke take it unkindly at the hands of his better, Equall or inferiour Friends; blaming them with the touch of his credit for their so advised tampering with him in

matter

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matter of his judicall and sworne Dutie. Hee may also with one word of his mouth command his owne *Curres* to couch and to cease their *barking*: He may likewise send the *Suitor* to the *Court*, and his *Counsellor* to the *Barre*, and consequently rid himselfe and his house of all this unquiet *kennell*, and thereby redeeme many a good houre, which he may bestowe partly for his owne needfull *recreation*, and partly in the *study* and *meditation* of such matters, as be serviceable for the place that he holdeth.

But now if this *Iusticer* will justifie himselfe and say, that howsoever he may seeme to lead his outward eare to those importunitiess (the which it is hard in these last and worst daies for any man to avoyd that meaneth not to bee at defiance or warre with all the world) yet notwithstanding his heart is upright, and that he doth and will doe according to the *exigencie* of his *oath* and office. Let him also give me leave to say with the merry Poet, *Credat iudæus Apella, non ego.* For as it is hardly credible, that any *Castle* which is continually battered should not be taken at the *length*, or that any *Woman* which admitteth all *Wooers*, should not apply to some *one*: So can this man never ex-

Objection

Answer.

C

cuse

use himselfe to the world-ward, but that by such his affability and ready eare he ministreth just suspition of swerving from the levell of true *justice*, that he playeth *Heautontimorumenos*, being no small cause that himselfe is so vexed and mis-spendeth his time.

Objection. If he will have reply and say that to taste of the *cause* before the *hearing* avayleth no lesse to his *instruction*, than to the speed of the ser-

Answer. I will acknowledge it, so as the same be done indifferently; but how that may be performed without the presence of both the parties, or of their *counsell*, faine would I learne: For to heare the one side alone, were (in a *matter judiciall*) to be possest with a *prejudiciale* conceipt, and to heare them sunderly were, besides the losse of time, but to be willingly abused, since either side, may (at liberty) offer what he will, if the other be not present to confront him. Nay, the *world* (that is now adayes curios and sharpe sighted) doth well enough perceive, that evermore after such crafty suggestions so apprehended, the *Bowle* keepeth not the *Alley*, but flyeth out by one *cranke* or other; So as though the *cause* in question taketh not a direct or downeright blow, by *judgement* in

Court;

Court; yet shall it (by some *obliquity*) crawle away with the backe thereof broken, whether it be by resuming it to a private *hearing*, by drawing it to a long and tedious prosecution, by committing it to a partiall *report*, by referring it to some unequall *arbitrement*, or by one or other indirect *ibwart*, that shall carry no lesse injustice with it, than if the *Judge* himselfe were utterly corrupted and pverted.

Multa
concedun-
tur per ob-
liquumquz
non con-
ceduntur
de direccio.
Coke 11. 6.
47.

To conclude therefore; let every good and true *Friend*, *Favourite* and *Follower* of the *Judge* (if at the least they be desirous to mainetaine the fame of his *integrity*) hold it for meere *Sacrilege* and prophanation of *Justice*, once to attempt him in the part of his *jurisdiction*, which ought to be unto him a most chaste and undefiled *Virgin*. Let them also looke to themselves, and not onely weigh (as I said) with what good warrant of *conscience* they thus interpose themselves in a matter to them hardly halfe knowne, but also (remembering that it is forbidden mainetenance by the *Law* of their *Country*, to embrace a *Jury*, to solicit a *Juror*, to fee a *Counsellor*, or to give countenance at the *Barre* in another mans *suit*) let them (I say)

say) consider of what nature it is, and what it deserveth to labour, ply and wrest the *Judge*: *Counsellors* also must keepe their proper *Sation*, and containe themselves within the duties of their *Calling*; for they know, that howsoever they represent the very parties, and ought to assist them; yet that must bee *usq; ad aras*, and they may not bee feed a- gainst a knowne *Truth*; for the beating out whereof (that it may bee ripened for *judgement*) they bee used as necessary and most law- full *instruments*. So farre off is it, that they should abuse their learning, wisedome, elo- quence, and other gifts to the perverting of *truth*, and subverting of *right* by seduiction, or corrupting of the *Judge* that holdeth the *beam*e of the causes in *Ballance*. As for the *Judge* himselfe let him not feare to launch his *boate* into the deepe, where is *Sea-roome* suf- ficient, and let him rest upon *God* (whose *Image* he is) and stirre up those divine *Talents* which hee hath received, utterly forbearing to saile neere the *Shallow* and *Goodwyn* of this most dangerous *Solicitation*. So may his *Prince* joy the choyce of him: So may hee march on cheerefully *maugre* whatsoever *Enemie*:

So may good men trust unto him in their calamity, as to an holy Anchore : So shall not the wicked dare to approach his Court or presence; Justice shall conserve her due honour : and upright Judgement shall stand fast and unmoveable.

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*An Appendix with objections against
Favourites at the Barre of
Iustice.*



He just respect for which one Practizer at the *barre* may bee heard before another, to my understanding are these twain; One in regard of the *Client*, and another in respect of the *Cause* A *motion* in the behalfe of a poore person, of a weake widdow, of a fatherlesse child, or of a publike Servitor in a Common wealth, is in *bearing* to bee preferred before the *causes* of such as be rich, well assisted, of discretion, or private persons.

The *Cause* it selfe also may deserve preferment, either in consideration of the priority of time, that it hath in *Court*, or for the imminent danger in which it may stand, if it bee not speedily heard.

But

But that any *Counsellor* should be heard before other in regard of his person alone, without beholding the *Cause* or *Client*, hardly may any sound reason be assigned; And of that undue favour, these evils amongst others doe ensue:

First, by that ready lending of the *care* to some onely, or to Them chiefly, those onely *suits* be expedited, which these few selected persons do undertake, and in the mean space all other causes are suspended, albeit they have priority of time, or other good reason of preferment; the which unnecessary (or rather voluntary) *delay* is meere *injustice*, since justice consisteth not onely in the delivery of *right*, but also in affording the same with all agreeable and due *expedition*.

Secondly, by making such choice of a few *Favourites*, other good *Practitioners* in the *Law* are discouraged, to the great *losse* and *griefe* as well of them in their owne particular, and of many toward *Students*, that arethereby taught to seeke favour, more than to rest upon sound knowledge, as also of as many *Clients* as doe repose themselves and their *suits*, upon the fidelity and good learning of those which

seekc not the influence of the like favourable aspect.

Thirdly, the culling and cherishing of Favourites draweth the Favourer into suspition of corrupt partiality, especially if the Favoured be not of better gifts and ornaments by art and nature than other men, as many of them are not found to be.

Fourthly, godly and vertuous Practitioners will not use unlawfull meanes for the gaining of this favour, the which (without Sinister practice) is not alwaies vouchsafed; and then belike the worst sort of men doe endevour that way, and then also are causes (for the most part) put into the hands and mouths of such, as be unworthy to touch them. For it is no small furtherance to justice when causes be managed by men of modesty.

Fifthly, when these few doe finde that they shall be heard, and others holden off, they advance a monopoly of practice in Law, enhauncing the market of Fees by delay of their Clients, untill that they will apply to serve their greedinesse; So as the Noble or Ryall (which within memory was an usuall reward for a Counsellor) is now risen to 4.pound, 5.pound, 20. nobles

bles or 10. pound with Some; whereby also
suits are drawne out in *length*, and doe rebound
to the blame of the *Judge* that is causer and
continuer of these evils.

Sixthly, what unbridled boldnesse (or ra-
ther audacious petulancie) accompanieth this
unworthily bestowed *favour*, is daily seene
by the demeanors of these speciall men at the
Barre, where they forget not onely common
civility to their *equals* and *betters*, but also that
regard to the *Judge* and *Court*, which sober men
are wont and bounden to answere: Many of
them also not forbearing to betray their
owne *Clients*, when (after acquaintance with
the *inwards* of their *Cause*, and much money
milked from them) they shanie not (for a little
better *pay*) to become *Spart-ratters*, and to goe
into the *Tents* of the *Enemy*; of which fault
these latter yeeres have yeelded too too many
(and the same most shamefull) examples.

Seventhly, As *vertues*; so *vices* bee chai-
ned together, so as by the motion of one *Linke*
the rest are stirred: And therefore this une-
quall *Selection* draweth this further inconveni-
ence with it, that the *Favourite* (imboldened
by this preheminence) moveth further, and

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taketh courage to solicit the *Judge* at his *house* or *chamber*, whereto if God suffer him to incline, then receiveth he just correction for the first favour so unwisely disposed by him.

Eightly, This gracing of a few (especially at the *Barres* of *English Courts*) bringeth forward such as have *animam in lingua*, making them presume upon their vaine *loquacity*, and to make no account of substantiall *learning*. And here againe, Causes doe lose the time which these men doe consume in idle and vagrant discourses, digressing from the true points of the controversie; Besides which, the *Judge* himselfe is in perill to be inveigled and drawne out of the way.

Ninthly, I may adde that these men (blessed with such favour in the eyes of the *Judge*) doe at their departure and returne into their Countreyes carry the *badge* thereof in their faces, bearing countenance and seeking credit above others, where also they will doe no lesse (if not more harme) than they are before charged to have committed here.

Now

Now for removing of this *Malady*,
you may use the receipt following;
(vizt.)

TAke a headfull of *Discretion*, and choose
out a convenient handfull of the freshest
Flowers that doe grow in the *Garden* of
the *Law*, within *quarters* of the *Houses* of *Court*.
Admit these onely for practice at *Westminster*
being first well *tryed* and *fanned* from such *dust*
and *drosse*, as may either yet remaine at *study*,
or be meeter to keepe their *Chambers* (for di-
recting of *Causes* in *suits*, arguing of *Cases* in *de-
murrers*, or naming of *bookes* of all *sorts*) or to
serve for *Recorders* in *Cities* or *Towne-wikes* in-
corporate, or to supply the *Stewardship* of *Leets*,
or other *rurall Courts*. Then draw those first
fourth againe through a *fine streynner*, and (ac-
cording to their sundry *gifts* and *growths*) sort
them and *apply* them to each *Barre* and af-
fected place at *Westminster*; the *heavy* for the
Kings Bench and *Exchequer*, and the *lighter* for
the *Englysh Courts*; *change* and *supply* them as

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often need shall be, hearing them (alwaies in the meane time) with good *indifferencie*, and so as neither some / well nor others do / shrink or faint. And by Gods grace, you shall soone perceive the griefe to depart.

Clouds have / vnderlyng to them a **probatum** / sufficiente to satisfie the knowledg of the **Probatum est.**

Clouds have / vnderlyng to them a **probatum est.** / Now if this be so, then the **FINIS.**



